IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.7548/07
Badleram Vs. State of Raj. & Ors.

Date of order : 28/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Chetan Bairwa for the petitioner.
Shri D.D. Sharma, Assistant Government Advocate for the respondents.

******

This writ petition has been filed by the petitioner questioning the validity of the motion of no confidence carried out against him on 29.8.2007 whereby he has been removed from the post of Sarpanch, Gram Panchayat, Peepla, Panchayat Samiti, Sewar, Bharatpur.

Learned counsel for the petitioner has argued that the meeting of the Gram Panchayat was required to be chaired by Chief Executive Officer, Bharatpur, but in fact it was chaired by Tehsildar which was violative of sub-section (4) of Section 37

of the Rajasthan Panchayati Raj Act, 1994. Learned counsel in support of his arguments relied on the judgment of this Court in Madan Lal Vs. State of Raj.-AIR 1999 Raj. 177. It was argued that the no confidence was expressed by the members of the Gram Panchayat on allegation of misuse of funds of Gram Panchayat and further on the allegation that he discriminates with the members and that he does not give them any information about expenditure of panchayat funds and is used to taking liquor. Learned counsel argued that unless these charges are established by an appropriate enquiry in accordance with the rules, motion of no confidence cannot be passed thereupon. It was argued that the petitioner being a member of scheduled caste having been elected against reserved post, motion of no confidence against him could not be allowed to be passed lightly

as he is entitled to continue in that office for the entire duration.

Shri D.D. Sharma, learned Assistant Government Advocate has opposed the writ petition and has argued that the motion of no confidence against the petitioner was carried out in accordance with the provisions of Section 37. Meeting of the Gram Panchayat was chaired by the Tehsildar because the Chief Executive Officer as per the provisions contained in proviso to section 37(4) authorised him to do so. There are in all twelve members including the petitioner and out of them all other eleven members voted in favour of the motion. The motion of no confidence was therefore passed correctly. There was no requirement of holding an enquiry on allegation as asserted by the petitioner.

Having heard the learned counsel for the parties and perused the material

forming part of the record, I find that in the face of assertion made by the respondent that power to preside over the meeting was delegated to the Tehsildar by the Chief Executive Officer. Argument of the petitioner that Chief Executive Officer alone could have presided over the meeting of Gram Panchayat cannot be thus accepted. The judgment of this Court in Mohan Lal, supra is not applicable to the facts of the present case because the said judgment was delivered prior to amendment in Section 37 of the Act of 1994 so as to provide that the power of chairing the meeting could be delegated by the Chief Executive Officer to any other Officer. Merely because the petitioner is a member of Scheduled Caste and has been elected for a reserved constituency, does not mean that he is exempt from the provisions of Section 37 and no confidence motion

against him cannot be brought. Even if the motion of no confidence was moved by the members citing certain irregularities, that by itself cannot provide a basis to the petitioner to assert that such irregularities ought to have been first established by an enquiry and then only the motion of no confidence could have been considered. I therefore do not find any merit in this writ petition.

The writ petition is accordingly dismissed with no order as to costs.

(MOHAMMAD RAFIQ), J.

RS/